

**GOVERNMENT OF PUERTO RICO
LA FORTALEZA
SAN JUAN, PUERTO RICO**

Administrative Bulletin Number: OE-2022-007

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. PEDRO R. PIERLUISI, AMENDING EXECUTIVE BULLETINS OE-2021-075 IN ORDER TO IMPLEMENT VARIOUS INITIATIVES TO COMBAT COVID-19 AND TO SUPERSEDE ADMINISTRATIVE BULLETINS OE-2021-080, OE-2021-085, OE-2021-086, AND OE-2022-002.

WHEREAS: Since March 12, 2020—after the first cases of the disease designated COVID-19 were recorded in our Island, which is caused by the novel coronavirus SARS-CoV-2—we have been in a state of emergency. Since that date, countless strategies have been employed to control the pandemic, including issuing a mandate requiring the use of masks, social distancing, and requiring certain important sectors of our community to be vaccinated against the abovementioned virus or present a negative COVID-19 test, subject to certain available exceptions and alternatives.

WHEREAS: The information provided by the Puerto Rico Department of Health indicates that average daily confirmed cases are currently at 901 positive cases, and suspected cases are at 1,390. Similarly, the statistics confirm a significant number of hospitalizations due to COVID-19, totaling 647 people, divided into 601 adults and 46 minors. In the case of adults, this represents 9% of available beds. As for intensive care units, today the percentage of beds occupied by COVID-19 patients is 19%. In pediatric cases, 4% of beds are being occupied. Meanwhile, pediatric cases account for 3% of occupied intensive care unit beds.

WHEREAS: Once a state of emergency has been decreed, Article 5.10 of Act 20-2017, as amended, better known as the “Puerto Rico Public Safety Department Act,” empowers me as Governor to enact any measures that result necessary to ensure the safety and wellbeing and protect the property of Puerto Rico’s residents for as long as the state of emergency is in effect.

WHEREAS: Subsection (b) of Article 5.10 of Act 20-2017 establishes that, as Governor of Puerto Rico, I may enact, amend, and repeal any regulation, and issue, amend, and rescind any order that I deem convenient to govern during the state of emergency or disaster. The regulations enacted or orders issued during a state of emergency shall have the force of law while said state of emergency persists.

WHEREAS: The Government of Puerto Rico has a responsibility to continue the efforts necessary for preventing and stopping the spread of COVID-19, and to safeguard the health, lives, and wellbeing of all



of Puerto Rico's residents.

WHEREAS:

Having the authority to govern a community entails taking on the great responsibility of ensuring that its people are safe and healthy. The State's power of reason—as delegated to the Executive Power by Act 20-2017—empowers the government to implement measures necessary for safeguarding the health and wellbeing of its people. In other words, it is the State's inherent authority which allows for the creation and enactment of regulation in general for the purposes of safeguarding the general health, safety, and wellbeing. In order to achieve these benefits for the community, the State has the power to restrict certain personal interests, which are not absolute.

WHEREAS:

Given the number of COVID-19 cases in the past several weeks, it is necessary to continue certain measures to control the pandemic. Specifically, it is necessary to continue requiring the corresponding screening to detect COVID-19 at restaurants, bars, food kiosks ("chinchorros"), movie theaters, community or activity centers, casinos, and any other establishment that serves prepared food or drinks. The measures taken in this Executive Order are also necessary to limit capacity at certain private establishments and to restrict group activities.

WHEREAS:

The measures established in this Executive Order are consistent with the ones employed from the beginning of this year. All of them struck a balance between the population's health and safety and the adverse effects on the economy. Likewise, the measures established in this Executive Order are similar to the ones implemented during other periods of time when there was an increase in infection rates, which were certainly effective.

WHEREAS:

It should be emphasized that each citizen has an individual responsibility to be sensible and rational when considering any personal, commercial, or professional activity they are attending or involved with. If each Puerto Rican follows all of the precautionary measures ordered by the CDC, the Department of Health, the other components of the Government of Puerto Rico, and this Executive Order, we will all undoubtedly be safer. Therefore, each citizen has a responsibility to continue adhering to the established precautionary measures, avoiding gatherings, and also to be sensible and not to attend any activity that they believe could put their health, or the health of others, at risk.

THEREFORE:

I, PEDRO R. PIERLUISI, Governor of Puerto Rico, by virtue of the powers inherent to my office and the authority vested in me by the Constitution and the laws of the Government of Puerto Rico, hereby declare and order the following:

Section 1:

REDUCTION OF CAPACITY. In order to minimize infections and safeguard the health of Puerto Rico's entire population, I hereby order that the following entities must limit their capacity in accordance with these directives:

1. Indoor restaurants (including fast food restaurants, food courts, cafes, and any other establishment whose primary function is the sale of prepared food) must limit their capacity to 75% of their regular capacity. On the other hand, open-air restaurants may operate without limitations on capacity.
2. Bars, food kiosks ("chinchorros"), diners, and sport bars must limit their capacity to 50% of the venue's maximum capacity. For the purposes of this Executive order, bars, food kiosks ("chinchorros"), diners, and sport bars are establishments primarily dedicated to the sale of alcoholic beverages intended to be consumed within said establishments. In addition, restaurants and cafes (indoor establishments where coffee, soft drinks, sandwiches, and other snacks are sold) that continue their operations selling alcoholic beverages and it becomes their primary activity shall also be considered as such.
3. Theaters, movie theaters, and similar indoor establishments must limit capacity to 75% of the venue's maximum capacity.
4. Establishments whose primary function is to host group activities, such as amphitheatres, stadiums, coliseums community centers, and activity centers where alcoholic beverages or prepared food are served must limit their capacity to 50% of the venue's maximum capacity.

The percentages listed above shall be based on the building code currently in effect in Puerto Rico (PR Building Code 2018) and authorized by the Puerto Rico Firefighters Corps Bureau.

The Department of Health may, in coordination with the Secretary of State, permit group activities with other capacity limits or other parameters not included in this Executive Order, in which case they must evaluate and approve the exemptions and sanitary protocols that must be adhered to at each group activity. The applicant must submit their request for an exemption or exception 5 business days prior to the date of the activity.

Section 2:

AMENDMENT. Given the current state of the pandemic, group activities are permitted as long as those participating present a negative COVID-19 test result or are fully vaccinated against

COVID-19. For this reason, Section 5 of Administrative Bulletin OE-2021-075 is amended to read as follows:

SECTION 5: GROUP ACTIVITIES. In the interest of successfully safeguarding the health of Puerto Rico's entire population and minimizing infections, I hereby order that, starting when this Executive Order enters into force, all group activities held at theaters, amphitheaters, stadiums, colosseums, convention and activity centers, and any other venue at which activities are held—be they indoor or outdoor—must require individuals over the age of 5 who are attending to meet one of the following conditions:

1. present evidence that they are properly inoculated with a vaccine authorized by the FDA for addressing the COVID-19 emergency or any of the vaccines in the WHO's emergency use list, including the booster dose in the case of people able to receive it;
2. undergo a qualified, FDA-approved SARS-CoV2 viral test (nucleic acid amplification test ["NAAT"] or antigen test) processed by an authorized medical professional 48 hours prior to the event, and present the negative result from said test; or
3. present a positive COVID-19 test result from the past 3 months, along with documentation of their recovery, including a letter from a certified medical care provider or government official certifying that the individual has recovered and is ready to be present in public spaces.

For the purposes of this Section, a person is considered to be able to receive a booster shot based on the following CDC guidelines:

1. If they were vaccinated against COVID-19 using the Pfizer-BioNTech vaccine, the person is able to receive it if they are 12 years of age or older and at least 5 months have passed since they received the last dose in their primary vaccination series, or the additional primary dose in the case of immunocompromised individuals.
2. If they were vaccinated against COVID-19 using the Moderna vaccine, the person is able to receive it if they are 18 years of age or older and at least 5 months have passed since they received the last dose in their primary vaccination series or the additional primary dose in the case of immunocompromised individuals.
3. If they were vaccinated against COVID-19 using the Johnson & Johnson Janssen vaccine, the person is able to receive it if they are 18 years of age or older and at least 2 months have passed since they received the sole primary dose.

Because no vaccines have yet to be authorized for minors under the age of 5, as a general rule, they may not attend indoor group events that promote or involve crowds, even if they have a test result

from a qualified viral test. The Secretary of the Department of Health, or a person they delegate, shall have discretion to evaluate any request to authorize minors to attend specific activities at which the safety of those attending is guaranteed.

The above shall not apply to religious events or public events at which government services are provided.

In the case of recreational or sports activities, the Department of Recreation and Sports, in consultation with the Department of Health, must determine the appropriate protocols, if any, for each activity.

Section 3:

AMENDMENT. In order to require a certain degree of protection from visitors when they visit public spaces, Section 10 of Administrative Bulletin OE-2021-075 is amended to read as follows:

SECTION 10: REQUIREMENTS FOR VISITORS. In order to safeguard the health of Puerto Rico's entire population and minimize infections, I hereby order that, starting when this Executive Order enters into force, all restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("*chinchorros*"), diners, sport bars, movie theaters, community or activity centers (where family activities are held), any other establishment that serves prepared food or drinks, hotels, resorts, hostels, beauty salons, barber shops, aesthetics salons, spas, gyms, and casinos must verify that all of their visitors—subject to the exceptions established in this section—meet one of the following requirements:

4. that the visitor present evidence that they are proper inoculated with a vaccine authorized by the FDA for addressing the COVID-19 emergency or any of the vaccines in the WHO's emergency use list;
5. that the visitor present a negative COVID-19 test result from a qualified SARS-CoV2 viral test (nucleic acid amplification test ["NAAT"] or antigen test) performed no more than 48 hours prior to the visit and processed by an authorized medical professional, prior to entering the business; or
6. that the visitor present a positive COVID-19 test result from the past 3 months, along with documentation of their recovery, including a letter from a certified medical care provider or government official certifying that the individual has recovered and is ready to be present in public spaces.

It shall be the responsibility of each business or commercial entity to request that each applicable visitor—before entering the establishment—present an immunization certificate (COVID-19 Vaccination Record Card or Vacu ID), a negative viral test result, or a positive COVID-19 test rest from the past three (3) months along with documentation of their recovery. In the case of food courts, restaurants shall be responsible for screening people

purchasing food. For their part, it shall be each visitor's responsibility to present their immunization certificate (COVID-19 Vaccination Record Card or Vacu ID), a negative viral test result, or a positive COVID-19 test rest from the past 3 months along with documentation of their recovery, as a requirement to being permitted to enter the establishment. The immunization certificate or viral test may be presented through any other physical or digital method.

It is important to point out that what is established in this Executive Order does not limit the authority any private operator has to implement restrictions in addition to those established herein. That is to say, nothing established in this Executive Order may be interpreted as a limitation on the authority private operators have to take additional or more restrictive measures, including but not limited to, a voluntary restriction on their business hours, limiting their available space, or limiting the number of people who may remain within their establishment.

Minors under the age of five (5) are exempted from the screening established in this section because it is currently not possible for them to be vaccinated.

At restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("chinchorros"), diners, and sport bars, all individuals who are solely and exclusively acquiring food through delivery, drive-thru, or pickup services, are exempted from this Section; in other words, those who will not consume food within the commercial establishment.

Any visitor who refuses to comply with the requirements established in this Executive Order, as implemented by a private operator, shall not be permitted to enter the establishment. If said individual is a guest at a hotel, resort, or hostel, including short-term rentals, they may not enter or sleep at said establishment until they comply with the provisions of this Executive Order. All citizens are urged to cooperate with private operators in complying with what is established herein. Should any citizen not cooperate and attempt to force any private operator to not comply with the provisions of this Executive Order, they shall be subject to what is established in Section 14 of this Order and any other applicable provisions of the Puerto Rico Penal Code.

All beauty salons, barber shops, aesthetics salons, spas, or gyms that are not in compliance with the requirements established above shall be required to limit their establishment's maximum capacity to 50%, as established by the current building code in Puerto Rico (PR Building Code 2018).

Section 4:

AMENDMENT. Section 11 of Administrative Bulletin OE-2021-075 is amended to read as follows:

SECTION 11: OVERSIGHT. The pertinent agencies are hereby ordered to oversee compliance with what is established in this Executive Order. In turn, the public is encouraged to report entities

that fail to comply with what is established herein to the pertinent authorities. In order to help citizens assist in the oversight and compliance of this Executive Order, all businesses or establishments are hereby ordered to display signs in visible locations that notify the public of the confidential COVID-19 hotline created by the Department of Health. The sign or ad must specify whether the establishment performs screening by verifying vaccination status or by requiring negative test results at their entrance. This sign or poster must contain the following contact information so that citizens may report instances of noncompliance:

- a) Phone: (787) 522-6300, extensions 6899, 6840, 6824, 6833, and 3893
- b) Email: investigaciones@salud.pr.gov

Hair salons, barber shops, aesthetics salons, spas, and gyms that decide not to perform the screening established herein must add to the abovementioned sign the number of people that can occupy the establishment when it is operating at 50% of its maximum capacity, as established in PR Building Code 2018 and authorized by the Puerto Rico Firefighters Corps. Failing to do so shall constitute a failure to comply with this Executive Order.

Citizens are encouraged to notify the pertinent agencies, including the Department of Health, of any private operator that is not complying with the screening or capacity limitation requirements at their establishment as established in this Executive Order.

Section 5:

ELIMINATION OF RESTRICTIONS ON BUSINESS HOURS AND ALCOHOL PROHIBITION. The limitations on business hours for private operations that serve the public, and the restrictions on the sale and consumption of alcoholic beverages between the hours of 12:00 a.m. and 5:00 a.m. established in Administrative Bulletin Oe-2021-086 are hereby eliminated.

Section 6:

GUIDELINES. The provisions of this Executive Order may be defined, interpreted, reinforced, or modified in detail through guidelines issued by the Department of Health.

It should be clarified that, for legal purposes, Administrative Bulletin OE-2020-023—which allowed for the necessary government and private closures to combat the effects of COVID-19—was extended until Administrative Bulletin OE-2021-054, to wit, July 1, 2021. The reason for this was that said Executive Order eliminated the government and private closures issued since March 2020. The measures implemented afterwards have been restrictions or limitations that do not actually represent government or private closures.

Section 7:

NON-CREATION OF ENFORCEABLE RIGHTS. This Executive Order is not intended to create any rights, substantive or

procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

Section 8: **DEFINITION OF THE TERM 'AGENCY'**. For the purposes of this Executive Order, the term "agency" refers to any agency, instrumentality, office, or department of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of their name.

Section 9: **SEVERABILITY**. The provisions of this Executive Order are separate and independent of each other, and if any part, section, provision, or sentence of this Executive Order is declared unconstitutional, void, or invalid by a court of jurisdiction and venue, such decision shall not affect the validity of the remaining provisions, which shall remain in full force.

Section 10: **PRIOR ORDERS SUPERSEDED**. This Executive Order shall supersede the parts of any executive order that may, in whole or in part, be inconsistent with the provisions herein, to the extent of such inconsistency. In particular, it supersedes administrative bulletins OE-2021-080, OE-2021-085, OE-2021-086, and OE-2022-002.

Section 11: **PUBLICATION**. This Executive Order must be filed immediately with the Department of State and the widest possible publication is hereby ordered.

Section 12: **VALIDITY**. This Executive Order shall enter into force on February 2, 2022 and shall remain in force until February 16, 2022.

IN TESTIMONY WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed, at La Fortaleza, in San Juan, Puerto Rico, on this 28th day of January of 2022.



**PEDRO R. PIERLUISI
GOVERNOR**

Enacted in accordance with the law on this 28th day of January of 2022.

**OMAR J. MARRERO DÍAZ
SECRETARY OF STATE**